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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/579,665

05/18/2006

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10/24/2007

EXAMINER

BENNETT, GEORGE B

ART UNIT

PAPER NUMBER

2859

MAIL DATE

DELIVERY MODE

10/24/2007

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

717

# Office Action Summary

Application No.

10/579,665

Applicant(s)

DELFINI ET AL.

Examiner

G. Bradley Bennett

Art Unit

2859

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 18 May 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 18 May 2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date 2.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_.

## DETAILED ACTION

### *Claim Objections*

1. Claim 16 is objected to because of the following informalities: this claim does not appear to have antecedent basis for "the circular arc" or "the measurement shaft". Appropriate correction is required.

### *Claim Rejections - 35 USC § 103*

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1, 7, 10, 11, 15 and 17-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Tessel et al. in view of Hymer.

4. Tessel et al. discloses the invention as claimed where: **100** is a marking device with length measuring indicia; **115** is a goniometer that both slides and rotates; **125** is a laser. However, Hymer does not disclose a fastening element, plurality of fasteners, the yoke, the measuring tape or the surveyor's rod as claimed. Tessel et al. clearly discloses how a fastening element (unit) may be used with an angle measuring device for the purpose of attaching the device to a piece of work. Furthermore, it is old and well-known to duplicate parts for a multiplied effect, such as using a plurality of fasteners instead of a single fastener [see *St. Regis Paper Co. v. Bemis Co., Inc.*, 193 USPQ 8, 11 (7<sup>th</sup> Cir. 1977)]. Therefore, it would have been

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obvious at the time the invention was made for one of ordinary skill in the art to use one or more fastening elements in the manner taught by Hymer in conjunction with the device of Tessel et al. for the purpose of fastening the Tessel et al. device to a piece of work. Hymer also discloses a path which includes a circular arc **42** for the purpose of adjusting a rotatable member. Therefore, it would have been obvious at the time the invention was made for one of ordinary skill in the art to use a path with a circular arc as taught by Hymer in conjunction with the device of Tessel et al. as an alternative means for rotating the rotatable device of Tessel et al.. Regarding the yoke, measuring tape and surveyor's rod, Official Notice is taken that all these elements are well-known functional equivalents for the measuring elements taught by Tessel et al. Therefore, it would have been obvious at the time the invention was made for one of ordinary skill in the art to use any or all of these elements in conjunction with the combination of Tessel et al. and Hymer based on manufacturing and/or end user preferences.

5. Claims 2-6, 8, 9, 12-14 and 16 rejected under 35 U.S.C. 103(a) as being unpatentable over Tessel et al. and Hymer as applied to claim 1 above, and further in view of Ting.

6. Tessel et al. and Hymer disclose the invention substantially as claimed. However, neither Tessel et al. nor Hymer disclose that the laser is rotatably moveable with the goniometer. Ting discloses that it is known to use a laser with a goniometer **22** for the purpose of setting out specific angles on a piece of work. Therefore, it would have been obvious at the time the invention was made for one of ordinary skill in the art to use a laser goniometer device as taught by Ting in conjunction with the combination of Tessel et al. and Hymer for the purpose of providing the goniometer of the combined device with a laser which would allow specific angles to easily be set out.

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7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to G. Bradley Bennett whose telephone number is 571.272.2237.

The examiner can normally be reached on M-TH 8:30-5:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Dean A. Reichard can be reached on 571.272.1984. The fax phone number for the organization where this application or proceeding is assigned is 571.273.8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866.217.9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800.786.9199 (IN USA OR CANADA) or 571.272.1000.

  
G. Bradley Bennett  
Primary Examiner  
Art Unit 2859

gbb  
22 OCT 2007